

SECOND REGULAR SESSION

HOUSE BILL NO. 1328

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROBIRDS (Sponsor), MYERS, OSTMANN, LEVIN,
HUNTER, TOWNLEY, DOLAN, MOORE, GRAHAM, BERKSTRESSER AND RECTOR.

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TED WEDEL, Chief Clerk

3265L.01I

AN ACT

To repeal sections 105.450, 105.963, and 130.056, RSMo, and to enact in lieu thereof three new sections relating to the Missouri ethics commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 105.450, 105.963, and 130.056, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 105.450, 105.963, and 130.056, to read
3 as follows:

105.450. As used in sections 105.450 to 105.496 and sections 105.955 to 105.963, unless
2 the context clearly requires otherwise, the following terms mean:

3 (1) "Adversary proceeding", any proceeding in which a record of the proceedings may
4 be kept and maintained as a public record at the request of either party by a court reporter, notary
5 public or other person authorized to keep such record by law or by any rule or regulation of the
6 agency conducting the hearing; or from which an appeal may be taken directly or indirectly, or
7 any proceeding from the decision of which any party must be granted, on request, a hearing de
8 novo; or any arbitration proceeding; or a proceeding of a personnel review board of a political
9 subdivision; or an investigative proceeding initiated by an official, department, division, or
10 agency which pertains to matters which, depending on the conclusion of the investigation, could
11 lead to a judicial or administrative proceeding being initiated against the party by the official,
12 department, division or agency;

13 (2) "Business entity", a corporation, association, firm, partnership, proprietorship, or
14 business entity of any kind or character;

15 (3) "Business with which a person is associated":

16 (a) Any sole proprietorship owned by himself or herself, the person's spouse or any
17 dependent child in the person's custody;

18 (b) Any partnership or joint venture in which the person or the person's spouse is a

19 partner, other than as a limited partner of a limited partnership, and any corporation or limited
20 partnership in which the person is an officer or director or of which either the person or the
21 person's spouse or dependent child in the person's custody whether singularly or collectively
22 owns in excess of ten percent of the outstanding shares of any class of stock or partnership units;
23 or

24 (c) Any trust in which the person is a trustee or settlor or in which the person or the
25 person's spouse or dependent child whether singularly or collectively is a beneficiary or holder
26 of a reversionary interest of ten percent or more of the corpus of the trust;

27 (4) "Commission", the Missouri ethics commission established in section 105.955;

28 (5) "Confidential information", all information whether transmitted orally or in writing
29 which is of such a nature that it is not, at that time, a matter of public record or public
30 knowledge;

31 (6) "Decision-making public servant", an official, appointee or employee of the offices
32 or entities delineated in paragraphs (a) through (h) of this subdivision who exercises supervisory
33 authority over the negotiation of contracts, or has the legal authority to adopt or vote on the
34 adoption of rules and regulations with the force of law or exercises primary supervisory
35 responsibility over purchasing decisions. The following officials or entities shall be responsible
36 for designating a decision-making public servant:

37 (a) The governing body of the political subdivision with a general operating budget in
38 excess of one million dollars;

39 (b) A department director **of any executive agency**;

40 (c) A judge vested with judicial power by article V of the Constitution of the state of
41 Missouri;

42 (d) Any commission empowered by interstate compact;

43 (e) A statewide elected official;

44 (f) The speaker of the house of representatives;

45 (g) The president pro tem of the senate;

46 (h) The president or chancellor of a state institution of higher education;

47 (7) "Dependent child" or "dependent child in the person's custody", all children,
48 stepchildren, foster children and wards under the age of eighteen residing in the person's
49 household and who receive in excess of fifty percent of their support from the person;

50 (8) "Political subdivision" shall include any political subdivision of the state, and any
51 special district or subdistrict;

52 (9) "Public document", a state tax return or a document or other record maintained for
53 public inspection without limitation on the right of access to it and a document filed in a juvenile
54 court proceeding;

55 (10) "Substantial interest", ownership by the individual, the individual's spouse, or the
56 individual's dependent children, whether singularly or collectively, directly or indirectly, of ten
57 percent or more of any business entity, or of an interest having a value of ten thousand dollars
58 or more, or the receipt by an individual, the individual's spouse or the individual's dependent
59 children, whether singularly or collectively, of a salary, gratuity, or other compensation or
60 remuneration of five thousand dollars, or more, per year from any individual, partnership,
61 organization, or association within any calendar year;

62 (11) "Substantial personal or private interest in any measure, bill, order or ordinance",
63 any interest in a measure, bill, order or ordinance which results from a substantial interest in a
64 business entity.

105.963. 1. The executive director shall assess every candidate for state or local office
2 failing to file with a filing officer other than a local election authority as provided by section
3 130.026, RSMo, a campaign disclosure report as required by chapter 130, RSMo, other than the
4 report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, a late
5 filing fee of ten dollars for each day after such report is due to the commission. The executive
6 director shall mail a notice, **within five business days of the report's due date and by**
7 registered mail, to any candidate and candidate committee treasurer and deputy treasurer who
8 fails to file such report informing such person of such failure and the fees provided by this
9 section. If the candidate persists in such failure for a period in excess of thirty days beyond
10 receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for
11 each day that the report is not filed, provided that the total amount of such fees assessed pursuant
12 to this subsection per report shall not exceed three thousand dollars **and further provided that**
13 **the executive director has mailed a notice of the amount of the late filing fee assessment by**
14 **registered mail at least monthly until such time as final payment has been received.**

15 2. (1) Any candidate for state or local office who fails to file a campaign disclosure
16 report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, other than
17 a report required to be filed with a local election authority as provided by section 130.026,
18 RSMo, shall be assessed by the executive director a late filing fee of one hundred dollars for each
19 day that the report is not filed, until the first day after the date of the election. After such election
20 date, the amount of such late filing fee shall accrue at the rate of ten dollars per day that such
21 report remains unfiled, except as provided in subdivision (2) of this subsection.

22 (2) The executive director shall mail a notice **within five business days of the report's**
23 **due date**, by certified mail or other means to give actual notice, to any candidate and candidate
24 committee treasurer and deputy treasurer who fails to file the report described in subdivision (1)
25 of this subsection informing such person of such failure and the fees provided by this section.
26 If the candidate persists in such failure for a period in excess of thirty days beyond receipt of

27 such notice, the amount of the late filing fee shall increase to one hundred dollars for each day
28 that the report is not filed, provided that the total amount of such fees assessed pursuant to this
29 subsection per report shall not exceed six thousand dollars **and further provided that the**
30 **executive director has mailed a notice of the amount of the late filing fee assessment by**
31 **certified mail or other means at least monthly until such time as final payment has been**
32 **received.**

33 3. The executive director shall assess every person required to file a financial interest
34 statement pursuant to sections 105.483 to 105.492 failing to file such a financial interest
35 statement with the commission a late filing fee of ten dollars for each day after such statement
36 is due to the commission. The executive director shall mail a notice, **within five business days**
37 **of the statement's due date and** by certified mail, to any person who fails to file such statement
38 informing the individual required to file of such failure and the fees provided by this section.
39 If the person persists in such failure for a period in excess of thirty days beyond receipt of such
40 notice, the amount of the late filing fee shall increase to one hundred dollars for each day
41 thereafter that the statement is late, provided that the total amount of such fees assessed pursuant
42 to this subsection per statement shall not exceed six thousand dollars **and further provided that**
43 **the executive director has mailed a notice of the amount of the late filing fee assessment by**
44 **certified mail at least monthly until such time as final payment has been received.**

45 4. Any person assessed a late filing fee may seek review of such assessment or the
46 amount of late filing fees assessed, at the person's option, by filing a petition within fourteen days
47 after receiving actual notice of assessment with the administrative hearing commission, or
48 without exhausting the person's administrative remedies may seek review of such issues with the
49 circuit court of Cole County.

50 5. The executive director of the Missouri ethics commission shall collect such late filing
51 fees as are provided for in this section. Unpaid late filing fees shall be collected by action filed
52 by the commission. The commission shall contract with the appropriate entity to collect such
53 late filing fees after a thirty-day delinquency. If not collected within one hundred twenty days,
54 the Missouri ethics commission shall file a petition in Cole County circuit court to seek a
55 judgment on said fees. All late filing fees collected pursuant to this section shall be transmitted
56 to the state treasurer and deposited to the general revenue fund.

57 6. The late filing fees provided by this section shall be in addition to any penalty
58 provided by law for violations of sections 105.483 to 105.492 or chapter 130, RSMo.

59 7. If any candidate fails to file a campaign disclosure report in a timely manner and that
60 candidate is assessed a late filing fee, the candidate, candidate committee treasurer or assistant
61 treasurer may file an appeal of the assessment of the late filing fee with the commission. The
62 commission may forgive the assessment of the late filing fee upon a showing of good cause.

63 Such appeal shall be filed within ten days of the receipt of notice of the assessment of the late
64 filing fee.

130.056. 1. The executive director of the Missouri ethics commission shall:

2 (1) Take such steps as are necessary to disseminate among the general public such
3 information as may serve to guide all persons who are or may become subject to the provisions
4 of this chapter for the purpose of facilitating voluntary compliance with the purposes and
5 provisions of this chapter;

6 (2) Be responsible for expediting the filing of all reports, statements and other
7 information required to be filed pursuant to the provisions of this chapter and, in connection
8 therewith, be responsible for developing procedures whereby all candidates shall be informed
9 of the provisions of section 130.016 so as to assure the timely filing of statements which some
10 candidates are eligible to file as provided in section 130.016;

11 (3) Develop and publish forms and printed instructional material and furnish such forms
12 and instructions to persons required to file reports and statements pursuant to the provisions of
13 this chapter, together with a summary of the provisions of chapter 115, RSMo, which apply to
14 candidates and committees covered by this chapter, provided, however, such forms shall not seek
15 information which is not specifically required by this chapter. All forms furnished pursuant to
16 this chapter shall clearly state in readable type on the face of the form the date on which the form
17 became effective. The forms published by the executive director shall provide for compliance
18 with reporting and other provisions of this chapter **and shall be distributed to every election**
19 **authority or local election authority as defined in section 130.026. Such authority shall**
20 **provide the forms to any candidate, as defined in section 130.011, upon the filing of the**
21 **person's candidacy.** Any report form published by the executive director for purposes of
22 compliance with section 130.041 shall provide for reporting contributions from individuals,
23 corporations, labor organizations and fictitious entities and contributions from committees on
24 the same form. Contributions from committees shall be listed first on each report form. All
25 expenditures shall also be reported on a single report form;

26 (4) Develop a filing, coding and cross-indexing system for reports and statements
27 required to be filed with the Missouri ethics commission, and preserve such reports and
28 statements for a period of not less than five years from date of receipt;

29 (5) Make the reports and statements filed with the Missouri ethics commission available
30 for public inspection and copying, commencing as soon as practicable but not later than the end
31 of the second day after which a report was received, and permit copying of any such report or
32 statement by hand or by duplicating machine, as requested by any person, at the expense of such
33 person, but no information obtained from such reports and statements shall be sold or utilized
34 by any person for any commercial purpose;

35 (6) Examine each report and statement filed with the Missouri ethics commission
36 pursuant to the requirements of this chapter to determine if the statements are properly completed
37 and filed within the time required by this chapter;

38 (7) Notify a person required to file a report or statement pursuant to this chapter with the
39 Missouri ethics commission immediately if, upon examination of the official ballot or other
40 circumstances surrounding any election, it appears that the person has failed to file a report or
41 statement as required by law;

42 (8) From reports filed with the Missouri ethics commission, prepare and publish an
43 annual report including compilations of amounts contributed and expended for the influencing
44 of nominations and elections;

45 (9) Prepare and publish such other reports as the Missouri ethics commission deems
46 appropriate;

47 (10) Disseminate statistics, summaries, and reports prepared under this chapter;

48 (11) Employ staff and retain such contract services, including legal services to represent
49 the commission before any state agency or before the courts as the executive director deems
50 necessary within the limits authorized by appropriation by the general assembly.

51 2. Each appropriate officer other than the executive director of the Missouri ethics
52 commission shall:

53 (1) Assist the executive director in furnishing forms and printed instructional material
54 to persons required to file reports and statements pursuant to the provisions of this chapter;

55 (2) Accept reports and statements required to be filed with the person's office;

56 (3) Develop for the officer's constituency a filing, coding, and cross-indexing system
57 consonant with the purposes of this chapter;

58 (4) Make the reports and statements filed with the officer available for public inspection
59 and copying, commencing as soon as practicable but not later than the end of the second day after
60 which a report was received, and permit copying of any such report or statement by hand or by
61 duplicating machine, as requested by any person, at the expense of such person, but no
62 information obtained from such reports and statements shall be sold or utilized by any person for
63 any commercial purpose;

64 (5) Preserve such reports and statements for a period of not less than five years from the
65 date of receipt;

66 (6) Examine each report and statement filed with the person's office pursuant to the
67 requirements of this chapter to determine if the reports and statements appear to be complete and
68 filed within the required time;

69 (7) Notify a person required to file a report or statement pursuant to this chapter
70 immediately if, upon examination of the circumstances surrounding any election, it appears that

71 the person has failed to file a report or statement as required by law;

72 (8) Notify the Missouri ethics commission if the person has reasonable cause to believe
73 that a violation of this chapter has occurred;

74 (9) Assess every candidate for state or local office failing to file with a local election
75 authority pursuant to section 130.026, a campaign disclosure report as required by this chapter
76 other than the report required pursuant to subdivision (1) of subsection 1 of section 130.046, a
77 late filing fee of ten dollars for each day such report is due to the election authority. The local
78 election authority shall mail a notice, by registered mail, to any candidate and candidate
79 committee treasurer and deputy treasurer who fails to file such report informing such person of
80 such failure and the fees provided by this subdivision. If the candidate persists in such failure
81 for a period in excess of thirty days beyond the receipt of such notice, the amount of the late
82 filing fee shall increase to one hundred dollars for each day that the report is not filed, provided
83 that the total amount of such fees assessed pursuant to this subsection per report shall not exceed
84 three hundred dollars.

85 3. Any person receiving from an appropriate officer a copy of, or who is permitted to
86 inspect or make a copy of, any report or statement filed pursuant to the requirements of this
87 chapter shall sign a statement that the person will not utilize the reports or statements or any
88 information thereon for any commercial use, except for public news reporting, whatsoever and
89 will not transfer the information obtained to any other persons for such purposes. It shall be the
90 responsibility of each appropriate officer to instruct any person making a request to inspect, copy
91 or receive a copy of any report or statement or any portion of a report or statement filed pursuant
92 to this chapter that the utilization of any information obtained from such reports for any
93 commercial purpose is a violation of this chapter.